IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1818 of 2007()

CRIME NO. 269/07 OF ARANMULA POLICE STATION

PETITIONER: ACCUSED NO.3:

K.SURESHKUMAR, AGED 36 YEARS,
S/O.KRISHNAN, PUTHENPURACKAL HOUSE,
PANTHANPLAVU P.O., PATTAZHI, PATHANAPURAM TALUK.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE, ARANMULA POLICE STATION,
PATHANAMTHITTA DISTRICT, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1818 of 2007

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Dated this the 12th day of June, 2007

O R D E R

The petitioner is the licensee in respect of a toddy shop. A crime under Section 55(a) of the Kerala Abkari Act has been registered against the petitioner by the police after drawing a sample of toddy kept in the premises of the petitioner. According to the petitioner, there is absolutely no justification for registering a crime under Section 55(a) as no offence whatsoever has been revealed. The sample was sent to the Forensic Science Laboratory. The report of the Laboratory is awaited.

2. The petitioner laments that a crime has been registered unnecessarily with vexatious intent in violation of the specific provisions in Rule 8(3) of the Kerala Abkari Shops Disposal Rules, 2002. The registration of the F.I.R. is premature. The F.I.R. need and should be registered only after getting the report of the Chemical Examiner, if such report indicates any violation of the provisions of the Abkari Act. Without doing the same, crime has been registered. In these circumstances the crime registered may be quashed, it is prayed.

3. The learned Prosecutor, on instructions, submits that so far the report of the Chemical Examiner has not been received. The learned Prosecutor submits that no action will be taken against the petitioner until such report is received and action will be taken only if such report reveals any offence under the Kerala Abkari Act.

4. The learned counsel for the petitioner submits that this statement is no consolation to the petitioner as the petitioner apprehends that he may be visited with adverse consequences on the basis of the crime registered. The learned counsel submits that the F.I.R. may be kept pending if that be necessary, but it may be made clear that the registration of the F.I.R. will not oblige the petitioner to face any adverse consequences.

5. The learned Prosecutor accepts the said course. He undertakes that no adverse consequences whatsoever will take place or be initiated against the petitioner until the report of the Chemical Examiner is received and unless such report justifies any such action. I take note of the submissions of the learned Prosecutor and the same is accepted. It is made clear that notwithstanding the registration of crime No.269 of 2007 of Aranmula Police Station, no further proceedings shall be taken on the basis of the registration of the said crime and the petitioners shall not be

visited with any adverse consequences on the basis of the registration of the crime, till the Chemical Examiner's report is received.

6. This Crl.M.C. is allowed to the above extent.

7. Hand over the order.

(R. BASANT)
Judge

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